

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWIN DORTCH,

Defendant.

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CASE NO. 5:18-CR-00180-2

ORDER

[Resolving Doc. 126]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Edwin Dortch moves for a sentence reduction under 18 U.S.C. § 3582(c)(2) and U.S. Sentencing Guidelines Amendment 821.¹

Amendment 821 changes the assignment of “status points” for criminal history calculations. For defendants with seven or more criminal history points, Amendment 821 reduces those defendants’ status points to one point.² For defendants with six or fewer criminal history points, Amendment 821 reduces those defendants’ status points to zero.³

Although Amendment 821 applies retroactively, a district court may not modify a defendant’s sentence based on a retroactive amendment unless the defendant is eligible under U.S. Sentencing Guidelines § 1B1.10.⁴ And under § 1B1.10(a)(2)(B), a defendant is not eligible if applying the retroactive amendment does not lower the defendant’s guideline range.⁵

¹ Doc. 126.

² U.S. Sent’g Guidelines Manual § 4C1.1 (U.S. Sent’g Comm’n 2023); *see also* <https://www.ussc.gov/guidelines/amendment/821>.

³ *Id.*

⁴ *Dillon v. United States*, 560 U.S. 817, 827 (2010).

⁵ U.S.S.G. § 1B1.10(a)(2)(B).

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In this case, the Court sentenced Defendant Dortch using Criminal History Category V for the guideline calculation, because Smith had 12 total criminal history points.⁶ Applying Amendment 821, Dortch's criminal history points are reduced to 11. But 11 criminal history points still results in Dortch have a Criminal History Category V.⁷ The change from 12 criminal history points to 11 criminal history points does not change Dortch's guideline range.

For this reason, Defendant Dortch is not eligible for a sentence reduction under Amendment 821 and § 3582(c)(2). The Court **DENIES** the sentence reduction motion.

IT IS SO ORDERED.

Dated: February 28, 2024

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁶ Doc. 74, PageID #: 483; Doc. 110; PageID #: 639.

⁷ See [U.S. Sent'g Guidelines Manual §5A \(U.S. Sent'g Comm'n 2023\)](#) (Sentencing Table).